

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 02-~~61161~~⁶¹¹⁶¹-CIV-MORENO/GARBER

JEFFREY J. THOMPKINS,

Plaintiff,

v.

LIL' JOE RECORDS, INC., *et al.*,

Defendants.

ORDER

THIS CAUSE is before the Court on Defendants' Corrected Petition for Attorneys' Fees and Costs (D.E. #252), by Order of Reference from the Honorable Federico A. Moreno, United States District Judge. For the reasons set forth below, Defendants' Corrected Petition is DENIED without prejudice.

In this action for copyright infringement and related claims, the Court granted Defendants' Motion for Summary Judgment on December 7, 2004, *see* D.E. #235, and entered judgment in Defendants' favor on December 17, 2004, *see* D.E. #245. Plaintiff appealed, and the Eleventh has not yet ruled on the merits of Plaintiff's appeal.

In light of the pending appeal, in order to conserve judicial resources it would be prudent to deny Defendants' Corrected Petition for Attorneys' Fees and Costs without prejudice pending resolution of the appeal. *Cf. Loggerhead Turtle v. County Council of Volusia County, Fla.*, 307 F.3d 1318, 1320 (11th Cir. 2002) ("The Turtles then moved for attorney's fees and costs, but the court denied the motion without prejudice pending the Turtles' appeal."); *Tire Kingdom, Inc. v. Morgan Tire & Auto, Inc.*, 253 F.3d 1332, 1335 (11th Cir. 2001) ("While the merits appeal was pending with

this court, Defendants filed for attorney's fees and costs. The district court granted the motion for fees and costs, but stayed consideration of the amount of the fee award until we disposed of the then-pending appeal.”).

Accordingly, it is hereby

ORDERED that Defendants' Corrected Petition for Attorneys' Fees and Costs (D.E. #252) is DENIED without prejudice to renew the Motion after resolution of Plaintiff's appeal.

DONE AND ORDERED in Chambers, Miami, Florida, this 23rd day of September, 2005.



BARRY L. GARBER
UNITED STATES MAGISTRATE JUDGE

Copies supplied to:
United States District Judge Federico A. Moreno
Counsel of record